

### **REMARKS**

Initially, in the Office Action claims 1 – 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,076,005 (Willenegger) in view of document WO00/35137 (Raith et al.).

By the present response, Applicant has amended claims 1, 6, 7 and 12 to further clarify the invention. Claims 1 – 12 remain pending in the present application.

#### **Response to Arguments**

In the Response to Arguments section of the Office Action, the Examiner states that Applicant's arguments were fully considered but are not persuasive. The Examiner admits that Willenegger does not disclose or suggest decoding the inband bit portion before a decoding error has been detected but again asserts that Raith et al. discloses these limitations and that it would be obvious to one of ordinary skill in the art to combine only the teaching of the operations and not the error triggering mechanism of Willenegger with the teaching of Raith et al. Applicant fails to see the reasoning in the Examiner's assertion since Willenegger teaches one method of performing decoding (after an error is detected and then not using the same method) while Raith et al. discloses an entirely different decoding method (i.e., using a prior history to determine a current decoding method). These are two incompatible approaches to solve the same problem, and one of ordinary skill in the art would have no motivation to make this combination. Further, the cited references must suggest reasons to make the combination. Here this does not exist. The Examiner appears to use impermissible hindsight in reading the limitations of the claims of the present application back into the cited references to justify motivation. Only with prior knowledge of Applicant's invention would one of ordinary skill in the art be motivated to take a portion of one reference and combine it with another portion of a totally incompatible reference in an attempt to achieve the claims of the present application. Further, since this combination fails to achieve the

limitations in the claims of the present application, and solves the same problem with different incompatible methods, one of ordinary skill in the art would have no motivation to make this combination.

### 35 U.S.C. §103 Rejections

Claims 1 – 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Willenegger in view of Raith et al. Applicant has discussed the deficiencies of each of these references and reasserts all arguments submitted in Applicant's previously filed responses. Applicant respectfully traverses these rejections and provides the following additional remarks.

Regarding claims 1, 6, 7, and 12, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of the claims of the present application. For example, Applicant submits that none of the cited references disclose or suggest decoding the inband bit portion of a received frame to obtain confidence levels associated with each of the M codec modes before a decoding error has been detected and decoding the speech portion of the received frame using the chosen speech codec method. The Examiner asserts that these portions are disclosed in Willenegger at Column 1, lines 62 – 67 and Column 5, lines 25 – 67. However, these portions merely disclose that in explicit detection schemes, the transmitter provides the receiver with information that identifies the particular transmission format used in the encoding process and the receiver decodes the received information assuming that the transmission format is the one indicated by the transmitter, details regarding the plurality of permissible formats being prioritized and that the prioritized order does not include the received transmission format since it has been demonstrated that this format does not result in a successful decoding, and that a metric is determined for each of the plurality of permissible formats that reflects the probability measured that the permissible format is the transmission format that was used to encode the received frame. This is not decoding the inband bit portion of a received frame to obtain confidence levels associated with each of the M codec modes, and

decoding the speech portion of the received frame using the chosen speech codec modes, as recited in the claims of the present application. Willenegger merely discloses determining the transmission format that was used to encode the received frame from a number of permissible formats based on a probability and decoding the received frame using the determined format. Willenegger nor Raith et al. disclose or suggest both decoding the inband bit portion of a received frame to obtain confidence levels associated with each of the M codec modes and then decoding the speech portion of the received frame using the chosen speech codec mode.

Moreover, none of the cited references disclose or suggest ordering the confidence levels from highest to lowest representing a most likely codec mode to a least likely codec mode, respectively, before a decoding error has been detected based upon a Euclidian distance measure, as recited in the claims of the present application. Neither Willenegger nor Raith et al. disclose or suggest ordering the confidence levels representing a most likely codec mode to a least likely codec mode based upon a Euclidian distance measure.

In addition, none of the cited references disclose or suggest decoding the speech portion of the received frame using the chosen speech codec mode, the decoding comprising a recursive convolutional decode, as recited in the claims of the present application. Neither Willenegger nor Raith et al. disclose or suggest decoding the speech portion of the received frame using the chosen speech codec mode, the decoding comprising a recursive convolutional decode. These limitations are neither disclosed nor suggested in the cited references.

Regarding claims 2 – 5 and 8 – 11, Applicant submits that these claims are dependent on one of independent claims 1 and 7 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 1 – 12 of the present application.

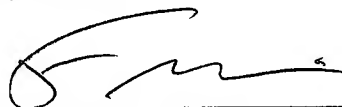
Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion

In view of the foregoing amendments and remarks, Applicant submits that claims 1-12 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

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